IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1490 of 1998

in

SPECIAL CIVIL APPLICATIONNo 9771 of 1998

For Approval and Signature:

HON'BLE MR.JUSTICE R.S.GARG
and
HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

ANWAR ISMAIL SURAIYA

Appearance:

1. LETTERS PATENT APPEAL No. 1490 of 1998

MS.PAHWA for Appellant No.

MR MUKESH H RATHOD for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE R.S.GARG
and

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 27/04/2005

ORAL JUDGEMENT (Per : HON'BLE MR.JUSTICE R.S.GARG)

Heard the learned counsel for the parties. The respondent-workman, Anwar Ismail Suraiya is working with the appellant-Gujarat State Road Transport Corporation (hereinafter referred to as "Corporation") since 1980 as Part Time Traffic Controller. As he was not put in regular cadre he raised a dispute seeking his regular appointment as Full Time Traffic Controller. The dispute culminated in reference to the Industrial Tribunal, Bhavnagar (hereinafter referred to as "the Tribunal") being Reference (IT) No.113 of 1993. The Tribunal by its order dated 27.02.1998 allowed the claim of the respondent-workman with certain observations. The Corporation being aggrieved by the said award came to this Court in Special Civil Application No.9771 of 1998. The learned Single Judge observed that it was not necessary for him to look into whether the respondent workman possesses the required qualifications or not. He, however, modified the award observing that the petitioner-corporation shall consider the case of the respondent-workman as and when the post of Full Time Controller falls vacant, subject to the workman possessing requisite qualifications. Ordinarily, that should have been the end of the matter, but the Corporation to be extra cautious and vigilant has filed this Letters Patent Appeal.

2. The submission of the learned counsel for the appellant is that the respondent is governed by the Bombay State Road Transport Corporation (Recruitment, Promotion, Seniority and Recategorisation Procedure). According to the said procedure the post of Traffic Controller can be filled by direct recruitment, so also by promotion. 75% posts would be filled by promotion from the cadre of Conductors, while 25% posts would be filled by direct recruitment. Her submission is that the respondent's case cannot be considered for the posts which are reserved for promotional avenues and his case can be considered only if it is falling under the process of direct recruitment. It is also submitted that the appellant-corporation is ready and willing to consider the case of the workman as and when the direct recruitment process is adopted.

3. Learned counsel for the respondent-workman submitted that the respondent had been working with the

corporation for the last 25 years and if he is required to appear in direct recruitment process then the dispute relating to qualifications, age, etc. would also arise. To this, learned counsel for the appellant has submitted that from perusal of subpara (3) of para 3L of the appeal memo it would clearly appear that in case of direct recruitment, the process of GSO 477 would be applicable. It is submitted by the appellant that as and when direct recruitment process is adopted the case of the respondent would be considered and age relaxation would be given in favour of the workman and preference would also be given to the workman who is working with the Corporation.

4. Taking into consideration the totality of the circumstances we must make it clear that the case of the respondent workman is required to be considered as and when posts are required to be filled by direct recruitment. It is also made clear that the workman would be entitled to the benefits of GSO 477 in relation to age relaxation and the preference.

5. To our mind application of GSO 477 and clarification of the order passed by the learned Single Judge would take care of the grievances of both the parties. With the observations aforesaid the Letters Patent Appeal is finally disposed of. No order as to costs.

(R.S. Garg, J.)

(Ravi R. Tripathi, J.)

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